



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Public Hearing to consider appeal received from Byron Weisz regarding his application to install a pool at 1936 Edgewood Drive, Lodi

**MEETING DATE:** September 18, 1996

**PREPARED BY:** Community Development Director

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**RECOMMENDED ACTION:** That the City Council conduct a Public Hearing to consider appeal received from Byron Weisz and direct staff to pursue Option II relating to lot line adjustments.

**BACKGROUND INFORMATION:** In July, Mr. Byron Weisz submitted a request for a building permit in order to construct a pool in his backyard. The attached Exhibit "A" indicates the location in relation to his house, etc. Of particular note, is the fact that the proposed pool would cross the rear property line and encroach into the existing Public Utility Easement (PUE). The adjacent property is owned by the City of Lodi and makes up part of the Lodi Lake Wilderness area.

Mr. Weisz was informed of our inability to issue a permit for a structure that a.) crosses a property line and; b.) encroaches onto City property. Subsequent to that notification, Mr. Weisz filed Exhibit "B" as an appeal to the City Council of staff's decision.

**DISCUSSION:** As mentioned, the central issue is the location of the pool in relation to the property line and the encroachment into the PUE. In dealing with the easement, the Electric Utility Department was consulted. Their response is attached as Exhibit "C." In short, they would allow encroachment provided the conditions shown can be met.

The final issue is the pool location. The Municipal Code and Uniform Building Code are quite clear about structures built over property lines. As such, a legitimate option for the Council is to deny Mr. Weisz' request and not allow the construction of the pool. Another option explored by staff, and one we feel has merit, would be to relocate the property line thereby eliminating the issue.

A majority, if not all, of the properties along this stretch of Edgewood Drive, have encroached some improvements onto the City property that lies below the top of the flood control levee. This levee provides protection as well as a trail into the wilderness area. The types of improvements that exist range from fences and retaining walls, to concrete flat work and gazebos. All of the properties have enhanced landscaping that they maintain. It is important to note that we did not identify any improvements that would require a building permit.

**APPROVED:** \_\_\_\_\_

H. Dixon Flynn -- City Manager

Council Communication  
Meeting Date: September 18, 1996  
Page 2

The concept of adjusting the lot lines to the top of the slope along the levee has been discussed with the Public Works and Parks and Recreation Departments. It is recommended that if this approach is pursued, that the following conditions be applied:

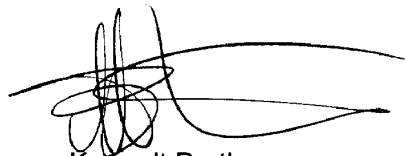
- All of the properties must participate.
- The City should sell the property to the individuals at a set reasonable per square foot price.
- That an easement for levee maintenance be retained.
- That the proceeds from the sale of the property be used for improvements at Lodi Lake.

Once the lot line adjustments are complete, then Mr. Weisz could be issued the permit and the pool constructed.

SUMMARY: The appellant has submitted a request to construct a pool over a property line and onto City property. The City Council has two options available:

- 1.) Deny the appeal.
- 2.) Pursue a lot line adjustment for the properties as outlined in the report.

FUNDING: None Required

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Konrad Bartlam  
Community Development Director

KB/lw

Attachments

cc: Public Works Director  
Parks & Recreation Director

# VICINITY MAP



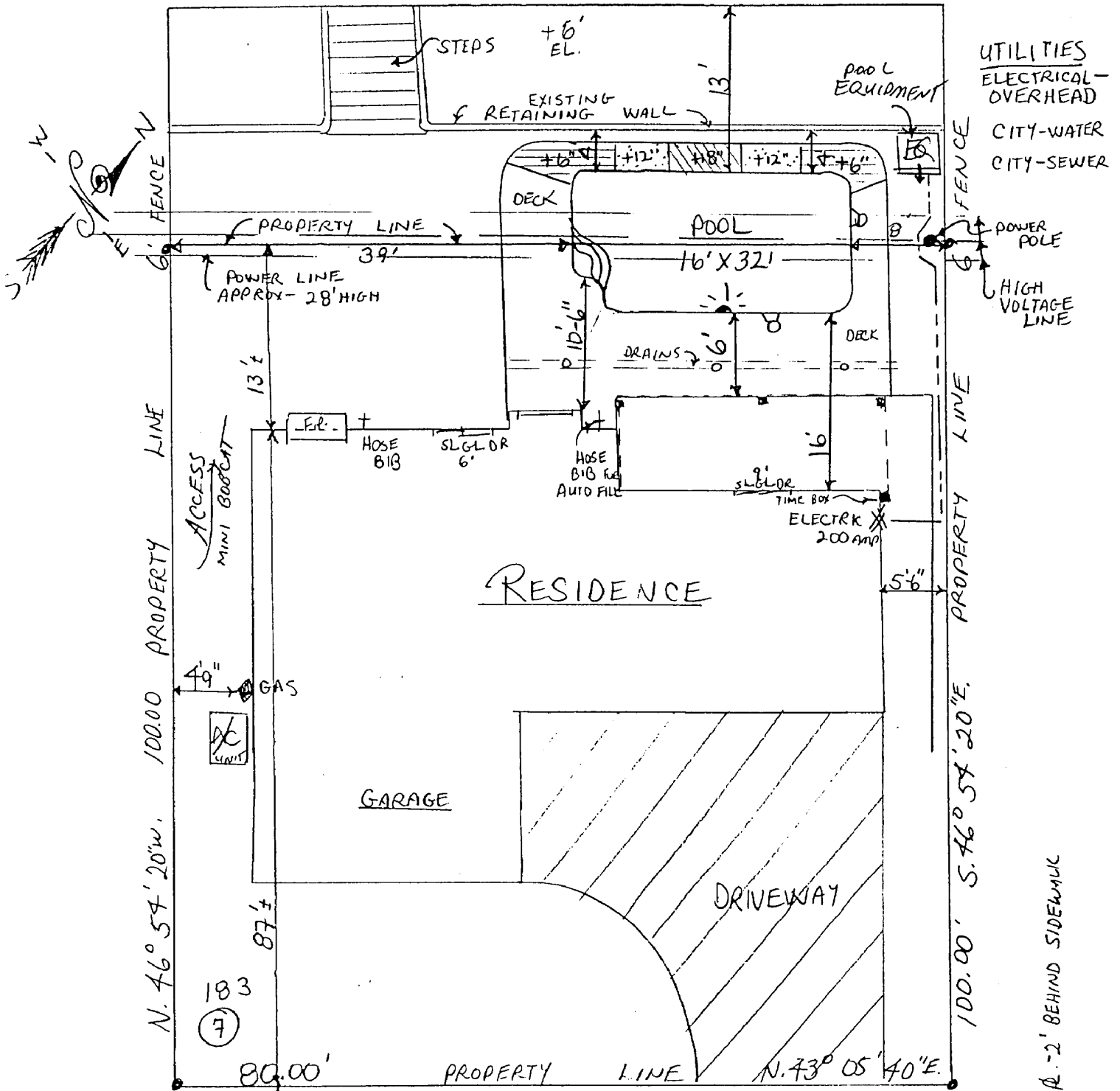
Leurel Av.

TURNER RD



Byron Weisz  
1936 Edgewood Drive  
9-18-96

# EXHIBIT "A"



A-2' BEHIND SIDEWALK

T.I.P. STREET SIDEWALK / 936 W. EDGEWOOD DRIVE

APN. - 039-094-07

R.M. BK. 18 PG. - 5

LAKEWOOD

UNIT NO. - 4

LOT NO. - 183

CITY OF Lodi

TRACT NO. - 814

JULY 26, 1967 9:30AM

1224-11701

(95240)

**RECEIVED**

JUL 22 1996

July 22, 1996

City of Lodi  
221 West Pine Street  
Lodi, CA. 95240



**CITY OF LODI**  
PUBLIC WORKS DEPARTMENT

Atten: Sharon Welch  
Associate Civil Engineer

Re: Residence Mr. & Mrs. Byron Weisz  
1936 W. Edgewood Drive  
Lodi, CA. 95242

Subject: Construction Application #10721  
1936 W. Edgewood Drive  
Lodi, CA. 95242

Dear Ms. Welch,

Per our conversation Thursday July 18, 1996 and the subsequent information that you provided to me concerning the Public Works Department review of my permit request to install a pool, I would like to request additional information regarding either a request for variance (with considerations for City conformance requirements or conditions) or the appeal process that would allow for some compromise as to sanction the additional improvements to my backyard.

The terms that are used in you correspondence in the second paragraph "may not" sounds so final in regards the initial location we have chosen to locate a pool in the backyard area. Surely there is room or a vehicle by which some compromise can be achieved that will allow my family to have this pool installed without causing or creating a liability issue with the city. I am willing at this time to provide whatever additional information, and would be open to any suggestions by your Department that would satisfy the City of Lodi Public Works Department and the Building Division allowing me to install this pool in my backyard. If I need to go before the City Council to get their permission to do this project, *please* put my request on their agenda. I believe it would be a benefit if I was able to meet with Mr. Jack Ronsko to discuss this issue. It would also be helpful to walk through the drawing as well as to meet at the house to look at the actual conditions.

The retaining wall referred to in you letter of July 10th was placed by me in the yard location to prevent the continued erosion and build up that has besieged my yard over the past couple of years during the rainy season. It is an interlocking brick system intended to prevent excessive erosion from occurring. I am willing also to apply for permit and submit whatever additional information that would be required to allow for this installation to remain to protect my property from this uncontrolled erosion. I apologize for my unawareness of the need to apply for permitting to install the retainer wall but I was told if the wall isn't over 4'-0" it would not require a permit.

Please consider my request knowing that I will provide my full cooperation to the City to remain compliant with the local jurisdiction. If you should have any questions please do not hesitate to contact me @ (209) 334-9119.

Sincerely,

A handwritten signature in dark ink, appearing to read "Byron Weisz", written over a horizontal line.

Byron Weisz  
1936 W. Edgewood Drive  
Lodi, CA. 95237

## **EXHIBIT "C"**

THE ELECTRIC UTILITY DEPARTMENT WILL ALLOW ENCROACHMENT INTO THE EASEMENT PROVIDING THAT THE FOLLOWING THREE CONDITIONS ARE MET BY THE APPLICANT:

1. APPLICANT TO PAY ALL EXPENSES ASSOCIATED WITH ANY NECESSARY RECONSTRUCTION OF OVERHEAD LINES TO ACCOMMODATE THE POOL IN THE EASEMENT, I.E., TO MEET ALL CLEARANCE REQUIREMENTS. (AT THIS TIME, WITH THE EXISTING SET OF PLANS, IT WILL NOT BE NECESSARY TO RECONSTRUCT THE EXISTING OVERHEAD LINES).
2. APPLICANT TO PROVIDE FOR A "HOLD HARMLESS AGREEMENT" TO BE GRANTED TO THE CITY AND RECORDED ON THE PROPERTY DEED.
3. APPLICANT TO CLEAR ENCROACHMENT INTO THE P.U.E. WITH ALL OTHER UTILITIES.

PLEASE NOTE THAT THE CITY OF LODI, ELECTRIC UTILITY DEPARTMENT, FULLY INTENDS TO MAINTAIN IT'S OVERHEAD FACILITIES IN THIS AREA. RELOCATION OF OVERHEAD FACILITIES OR THE RE PLACEMENT OF OVERHEAD FACILITIES WITH UNDERGROUND FACILITIES, WHEN REQUESTED BY THE PROPERTY OWNER, NOW OR IN THE FUTURE, WILL BE DONE SO SOLELY AT THE PROPERTY OWNER'S EXPENSE.



## CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

Date: September 18, 1996

Time: 7:00 p.m.

For information regarding this notice please contact:

**Jennifer M. Perrin**

City Clerk

Telephone: (209) 333-6702

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that on **Wednesday, September 18, 1996** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

- a) Appeal received from Byron Weisz regarding his application to install a pool at 1936 Edgewood Drive, Lodi.

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

*Jennifer M. Perrin*  
Jennifer M. Perrin  
City Clerk

**Dated: August 21, 1996**

Approved as to form:

*Randall A. Hays*  
Randall A. Hays  
City Attorney



## **DECLARATION OF MAILING**

### **Public Hearing: APPEAL OF BYRON WEISZ**

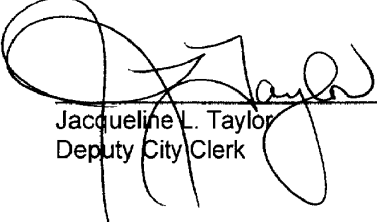
On August 22, 1996 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 22, 1996, at Lodi, California.

Jennifer M. Perrin  
City Clerk



Jacqueline L. Taylor  
Deputy City Clerk

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Linda S. Nichols  
Administrative Clerk